

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

FENNER INVESTMENTS, LTD.,

Plaintiff,

v.

CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, METROPCS
COMMUNICATIONS, INC., METROPCS
WIRELESS, INC., and METROPCS TEXAS,
LLC,

Defendants.

CIVIL ACTION NO. 6:11-cv-348-LED

JURY TRIAL DEMANDED

FINAL JUDGMENT

The Court has considered the entire case file, including all of its prior Orders, and the Stipulation and Joint Motion for Dismissal and Final Judgment filed by Plaintiff Fenner Investments Ltd. (“Fenner”) and Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) (collectively, the “Parties”). Based upon all of the foregoing,

IT IS ORDERED that, based upon the Report and Recommendation of United States Magistrate Judge [Docket # 122] (“R&R”) construing several of the contested claim elements of the patent-in-suit including the construction of the term “personal identification number” (“PIN”) and the Court’s Order Adopting Report And Recommendation Of United States Magistrate Judge [Docket # 153] (“Order Adopting R&R”), Claim 1 of United States Patent No. 5,561,706 is found to be NOT INFRINGED by Verizon Wireless and for that reason judgment is entered in favor of Verizon Wireless and against Plaintiff on all claims of the First Amended Complaint for Patent Infringement [Docket # 25], subject to and without prejudice to Plaintiff’s right to appeal this Final Judgment, any and all parts of the Court’s Order Adopting R&R, and any prior adverse

orders.

IT IS FURTHER ORDERED that Verizon Wireless' counterclaims and defenses including, but not limited to, non-infringement, invalidity and unenforceability of the '706 patent, are DISMISSED WITHOUT PREJUDICE, and Verizon Wireless remains free to reassert such counterclaims and defenses, and to object to or appeal any adverse ruling or order (including any pending objections to the Magistrate's Order on the construction of "mobile user" in Dkt. # 151 ("Memorandum Opinion and Order")) and that the period for any such appeal or objections shall be held in abeyance during the pendency of any appeal by Plaintiff of the present Final Judgment, should Plaintiff's infringement claim regarding the '706 patent be revived for any reason (including but not limited to modification of the Court's claim construction on appeal);

IT IS FURTHER ORDERED THAT all parties shall bear their own attorney fees and costs; and

IT IS FURTHER ORDERED THAT all motions and other requests for relief not otherwise ruled upon are hereby denied or dismissed as moot without prejudice to reassert such issues in the event of a remand.

This is a Final Judgment.

So ORDERED and SIGNED this 9th day of August, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**